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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,639	11/21/2001	Paul E. Shappell	091-0127	3687
27431	7590	07/30/2004	EXAMINER	
SHIMOKAJI & ASSOCIATES, P.C. 1301 DOVE STREET SUITE 480 NEWPORT BEACH, CA 92660			LAZO, THOMAS E	
			ART UNIT	PAPER NUMBER
			3745	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/990,639

Applicant(s)

SHAPPELL ET AL.

Examiner

Thomas E. Lazo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10 is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6 and 11 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 12-15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

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## **DETAILED ACTION**

### ***Claim Objections***

Claim 6 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 5.

When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Beck (4,190,130). Beck discloses a hydraulic system having a return line, a back-up system to operate the hydraulic system in the event of detection of a leak of fluid from the system including a source of auxiliary fluid 30, a pump 42 connected to the source of auxiliary fluid 30 and the hydraulic system return line for supplying auxiliary fluid to the hydraulic system return line, a switch 38 for selectively operating the pump means 42, and a one-way check valve between the pump 42 and return line for directing auxiliary fluid from the auxiliary fluid source 30 towards the return line.

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Regarding claim 11, Beck discloses a method of operating a hydraulic system in the event of failure of the system by providing a source of auxiliary fluid, pumping the source of auxiliary fluid into the hydraulic system line upon detecting a leak in the hydraulic system, and selectively controlling the pumping of the auxiliary fluid into the hydraulic system. An aircraft hydraulic system has been considered as an intended use and is not limiting.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck.

Beck discloses all of the claimed subject matter except for a fluid filter between the auxiliary fluid source and the pump.

Official notice is taken that a filter is a commonly used element to remove contaminants within a fluid system. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the hydraulic system of Beck to include a fluid filter between the auxiliary fluid source and the pump as a matter of engineering expedience.

***Allowable Subject Matter***

Claims 3, 4, and 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base

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claim and any intervening claims. The improvement comprises the source of auxiliary fluid being a reservoir of fuel or potable water.

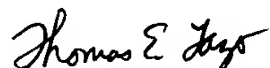
Claims 7-10 are allowed.

***Contact Information***

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Thomas Lazo whose telephone number is (703) 308-2285. The examiner can normally be reached on Monday-Friday from 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Edward Look, can be reached on (703) 308-1044. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to status of this application or proceeding should be direct to the Group receptionist whose telephone number is (703) 308-0861.



Thomas E. Lazo  
Primary Examiner  
Art Unit 3745

TEL  
July 29, 2004